

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                                   |   |                       |
|-----------------------------------|---|-----------------------|
| ONYX THERAPEUTICS, INC.,          | ) |                       |
|                                   | ) |                       |
| Plaintiff,                        | ) |                       |
|                                   | ) |                       |
| v.                                | ) | C.A. No. 18-598 (LPS) |
|                                   | ) |                       |
| CIPLA LIMITED and CIPLA USA, INC. | ) |                       |
|                                   | ) |                       |
| Defendants.                       | ) |                       |

**STIPULATION AND [PROPOSED] ORDER**

WHEREAS, this action against Cipla Limited and Cipla USA, Inc. (C.A. No. 18-0598-LPS) (the “Second Cipla Action”) is related to *Onyx Therapeutics, Inc. v. Cipla Ltd. and Cipla USA, Inc.*, C.A. No. 16-988 (LPS) (consolidated cases), which is currently pending before this Court;

WHEREAS, plaintiff Onyx Therapeutics, Inc. (plaintiff or “Onyx”) and defendants Cipla Limited and Cipla USA, Inc. (defendants or “Cipla”, and with Onyx, “the parties”) have agreed to consolidation of the Second Cipla Action with C.A. No. 16-988 (LPS) for purposes of discovery; and

WHEREAS, the parties have entered into a stipulation for the purpose of streamlining issues for discovery and trial in C.A. No. 18-0598-LPS filed July 10, 2018.

IT IS HEREBY STIPULATED AND AGREED by the parties, subject to the approval of the Court, that:

1) The Second Cipla Action shall be consolidated with C.A. No. 16-988 (LPS) for purposes of discovery. Upon consolidation, Onyx or Cipla may request that the Court consolidate the Second Cipla Action with C.A. No. 16-988 (LPS) for any other purpose by

following the “Discovery Matters and Disputes Related to Protective Order” procedures set forth in the Scheduling Order (D.I. 21) in C.A. No. 16-988 (LPS);

2) Upon consolidation, the parties agree to be bound by the Protective Order in C.A. No. 16-988 (LPS) filed on September 21, 2017 (D.I. 87) and So Ordered by the Court on September 22, 2017;

3) Upon consolidation, the parties agree to the provisions set forth in paragraphs 5-7, 8(j), 8(k), 9, 10 and 17-22 of the Scheduling Order (D.I. 21);

4) Upon consolidation, Cipla agrees to adopt Defendants’ Disclosures Pursuant to Paragraph 4(d) served in C.A No. 16-988 (LPS) on October 16, 2017 and Defendants’ Amended Disclosures Pursuant to Paragraph 4(d) served in C.A No. 16-988 (LPS) on May 31, 2018, subject to any amendments or supplementations thereto made in the lead case C.A. No. 16-988 (LPS), and to limit its counterclaims to the positions set forth in said disclosures, and plaintiff agrees to adopt Plaintiff’s Responses to Defendants’ Disclosures Pursuant to Paragraph 4(D) of the District of Delaware Default Standard for Discovery served in C.A. No. 16-988 (LPS) on February 21, 2018 and Plaintiff’s Amended Responses to Defendants’ Disclosures Pursuant to Paragraph 4(D) of the District of Delaware Default Standard for Discovery served in C.A. No. 16-988 (LPS) on May 31, 2018, subject to any amendments or supplementation thereto made in the lead case C.A. No. 16-988 (LPS);

5) Upon consolidation, the parties agree that all discovery taken by either Onyx or Cipla in C.A. No. 16-988 (LPS), and all expert reports served on behalf of either Onyx or Cipla in C.A. No. 16-988 (LPS), may be used in the consolidated action by Onyx and Cipla respectively;

6) Upon consolidation, the parties agree that the provisions set forth in paragraphs 1, 4 and 11-14 of the Scheduling Order (D.I. 21) are unnecessary in light of the provisions set forth in Paragraphs 1, 2 and 7 herein;

7) Upon consolidation, the parties agree they have already complied with and/or completed the provisions set forth in paragraphs 2, 3, 8(a) - (i), 15 and 16 of the Scheduling Order (D.I. 21) and/or the deadlines set forth in paragraphs 2, 3, 8(a) - (i), 15 and 16 of the Scheduling Order (D.I. 21) have passed;

8) Upon consolidation, the parties agree to forego claim construction; and

9) Upon consolidation, all filings shall be made in the lead case C.A. No. 16-988 (LPS).

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Maryellen Noreika*

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*Attorney for Defendants Cipla Limited and  
Cipla USA, Inc.*

SO ORDERED this \_\_\_\_ day of July, 2018.

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Chief, United States District Judge